

United States Senate

WASHINGTON, DC 20510

December 21, 2009

The Honorable Henry McMaster
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, S.C. 29201

Attorney General McMaster:

As you undoubtedly know, a recent compromise was reached between the Majority Leader of the United States Senate, Senator Harry Reid of Nevada, and United States Senator Ben Nelson of Nebraska to secure his vote on the health care legislation; H.R. 3590, *The Patient Protection and Affordable Care Act*, being considered in the Senate. This compromise includes a provision for the state of Nebraska where one hundred percent of the cost of all newly eligible Medicaid enrollees will be permanently borne by the United States Government instead of the traditional relationship that requires some form of state contribution.

The health care legislation will expand the number of Medicaid eligibles by requiring states to cover all residents with incomes of up to 133 percent of the federal poverty level. In the case of South Carolina, who will be required to provide state matching funds, additional millions of state dollars will be needed to cover thousands of new enrollees. Estimates from the Governor's office indicate that mandatory increases in Medicaid eligibility could increase the number of Medicaid beneficiaries by more than half a million. As we analyze the budgetary impact over the next decade, the cost to South Carolina taxpayers could be increased by over \$1 billion by 2019.

We have serious concerns about the constitutionality of this Nebraska compromise as it results in special treatment for only one state in the nation at the expense of the other 49. While South Carolina has to struggle to come up with hundreds of millions of dollars to comply with the massive new federal Medicaid mandate, Nebraska does not have to come up with a single dollar.

Please inform us of any potential legal challenges that could be pursued by our state, either separately or jointly with other states, and your advice on how to proceed. We appreciate your assistance and look forward to reviewing your response.

Sincerely,



Lindsey O. Graham
United States Senator



Jim DeMint
United States Senator